

NOTICES OF EXEMPT RULEMAKING

The Administrative Procedure Act requires the *Register* publication of the rules adopted by the state's agencies under an exemption from all or part of the Administrative Procedure Act. Some of these rules are exempted by A.R.S. § 41-1005 or 41-1057; other rules are exempted by other statutes; rules of the Corporation Commission are exempt from Attorney General review pursuant to a court decision as determined by the Corporation Commission.

NOTICE OF EXEMPT RULEMAKING

TITLE 14. PUBLIC SERVICE CORPORATIONS, CORPORATIONS AND ASSOCIATIONS, SECURITIES REGULATION

CHAPTER 5. CORPORATION COMMISSION TRANSPORTATION

PREAMBLE

1. Sections Affected
R14-5-202
R14-5-205
- Rulemaking Action
Amend
Amend
2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):
Authorizing statutes: A.R.S. §§ 40-202, 40-203, 40-321, 40-441, and 40-442 et seq.
Constitutional authority: Arizona Constitution, Article 15
Implementing statute: Not applicable
3. The effective date of the rules:
August 30, 1996
4. A list of all previous notices appearing in the Register addressing the exempt rule:
Notice of Proposed Rulemaking:
2 A.A.R. 3069, June 7, 1996
5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:
Name: Peter Breen
Attorney, Legal Division
Address: Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007
Telephone: (602) 542-3402
Fax: (602) 542-4870
6. An explanation of the rule, including the agency's reasons for initiating the rule, including the statutory citation to the exemption from the regular rulemaking procedures:
R14-5-202 and R14-5-205 pertain to the transportation of natural gas, other gas, and hazardous liquids by pipeline and were amended to recognize changes to 49 CFR 40, 191, 192, 193, 195, and 199. A change was made also in the requirement to file changes to a pipeline operator's existing operation and maintenance plans.
The Corporation Commission has determined that rules in this Chapter are exempt from the Attorney General certification provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State of Arizona v. Arizona Corporation Commission, 114 Ariz. Adv. Rep. 36 (Ct. App. 1992)).
7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:
Not applicable.
8. The summary of the economic, small business, and consumer impact:
 1. BRIEF DESCRIPTION: These amendments amend already existing rules R14-5-202 and R14-5-205 under Chapter 5 entitled "Transportation". The amendments to the existing rules are designed to update the Corporation Commission Pipeline Safety rules to recognize the amendments to 49, CFR 40, 191, 192, 193, 195, and 199 as of February 15, 1994) (Minimum Safety

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Standards for Construction, Operation and Maintenance of Natural Gas, Other Gases, and Hazardous Liquid Pipeline Facilities.)

2. **NEED:** The Commission has been granted agent status allowing it to enforce the Federal Pipeline Safety Standards. To maintain that status the Commission must, pursuant to the Natural Gas Pipeline Safety Act and the Hazardous Liquid Pipeline Safety Act, adopt and keep current with the Federal Pipeline Standards.

The Commission believes that through the adoption and incorporating by reference of 49 CFR updates, the rules will be consistent with the federal regulations and will enhance public safety which will be in the best interest of all citizens in the state of Arizona.

3. **AFFECTED CLASSES OF PERSONS:**

- A. Operators of master meter distribution systems
- B. Intrastate operators of natural gas and other gas pipelines
- C. Intrastate operators of hazardous liquid pipelines

4. **RULE IMPACT ON AFFECTED CLASSES OF PERSONS:**

- A. The rule simplifies requirements on master meter system operators if they are already complying with the Federal Pipeline Safety Regulations. The rule simplifies filing requirements for intrastate pipeline operators.
- B. There is no impact on operators of natural gas or other gas systems if they are already complying with the Pipeline Safety Standards.
- C. There is no impact on operators of hazardous liquid pipelines if they are already complying with the Federal Pipeline Safety Standards.

5. **COST AND BENEFITS TO THE AGENCY:** The Commission will have less paper to file from master meter operators and will be able to better maintain safety for the general public. The amendments to the rules will have no effect on other state agencies.

6. **COST AND BENEFITS TO POLITICAL SUBDIVISIONS:** There will be no impact on political subdivisions if they are already complying with the Federal Pipeline Safety Regulations.

7. **COST AND BENEFITS TO PRIVATE PERSONS:** There will be no additional cost to taxpayers, ratepayers, or customers. The impact of the rule changes is to provide the taxpayers, ratepayers, and customers with improved safety and to assure that all construction, operation, and maintenance is accomplished in accordance with the established minimum safety standards.

8. **COST AND BENEFITS TO CONSUMERS OR USERS OF ANY PRODUCT OR SERVICE IN THE IMPLEMENTATION OF THE NEW RULES:** The new rules will have no effect upon consumers or users of the gas service provided by regulated public utilities as they presently are required to be in compliance with all standards, but, this will benefit consumers, users, and the general public by maintaining a safe pipeline system.

9. **LESS COSTLY OR INTRUSIVE METHODS:** The rules are the least costly method for obtaining compliance with the long standing minimum safety standards. The rules do not impose additional standards. There is no less intrusive method.

10. **ALTERNATIVE METHODS CONSIDERED:** There are no alternative methods available to achieve the standardization of pipeline construction, training, and enhancement of safety.

STATEMENT OF EFFECT ON SMALL BUSINESS

1. **SMALL BUSINESS SUBJECT TO THE RULES:** The Master Meter operators such as mobile home parks, apartment complexes, and other small commercial operations will be excused from filing their Operation and Maintenance Plans with the Corporation Commission (Commission). These rules do not change the responsibilities of master meter operators already established in 1970 by the adoption by the Commission of 49 CFR 191 and 192. Those intrastate pipeline operators who may qualify as small businesses will have lessened filing requirements engendered by changes to their Operation and Maintenance Plans.

2. **PROFESSIONAL SKILLS AND REPORTING AND BOOKKEEPING PROCEDURES REQUIRED FOR COMPLIANCE:** No professional skills are required, the reporting and bookkeeping requirements are less than previously required.

3. **DESCRIPTION OF METHODS USED TO REDUCE IMPACT ON SMALL BUSINESSES:** The changes are designed to reduce the impact on small businesses. There are no new requirements that would impact the small business community.

4. **FEASIBILITY AND LEGALITY OF METHODS IN THREE (3) ABOVE:**
Not applicable.

9. **A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):**
R14-5-202. Construction and Safety Standards

In R14-4-202(D) the Commission deleted language "before commencing operations" from the 1st sentence and reinstated the language "within 120 days of the effective date of this rule" at the end of the sentence.

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It substituted "within" for "no later than 30" preceding the words "30 days" in the 2nd sentence. At the end of the same sentence, the Commission deleted the language "after the change in plan is implemented", added the word "of" after "30 days" and reinstated the language "the proposed effective date of implementation."

10. A summary of the principal comment and the agency response to them:

A public comment hearing was held on July 8, 1996. No members of the public appeared at the hearing to make a public comment. The Commission did not receive any written comments concerning the proposed amendments.

11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

Not applicable.

12. Incorporations by reference and their location in the rules:

49 CFR 40, 191, 192, 193, 195, and 199. These regulations cover the minimum safety standards for the construction and operation of gas and hazardous liquid pipelines. These regulations may be found at the Corporation Commission, Utilities Division, Pipeline Safety Section, 1200 West Washington, Phoenix, Arizona 85007. These regulations are incorporated by reference in the amended rules at R14-5-202(B), (I), and (J) and in R14-5-205(G).

13. Was this rule previously adopted as an emergency rule?

No.

14. The full text of the rules:

TITLE 14. PUBLIC SERVICE CORPORATIONS; CORPORATIONS AND

ASSOCIATIONS; SECURITIES REGULATION

CHAPTER 5. CORPORATION COMMISSION

TRANSPORTATION

ARTICLE 2. PIPELINE SAFETY

R14-5-202. Construction and Safety Standards

R14-5-205. Master Meter System Operators

ARTICLE 2. PIPELINE SAFETY

R14-5-202. Construction and Safety Standards

- A. No change.
- B. Subject to the definitional changes in R14-5-201 and the revisions noted in subsection (C) below, the Commission adopts, incorporates, and approves as its own 49 CFR 40, 191, 192, 193, except 195.1(b)(2) and (3), and 199, revised as of August 14, 1995 ~~February 15, 1994~~, (and no future amendments) incorporated by reference, on file with the Office of the Secretary of State, and copies available from the United States Government Printing Office, P.O. Box 371975M, Pittsburgh, Pennsylvania 15250-7975.
- C. No change.
- D. Operators of an intrastate pipeline will file with the Commission an Operation and Maintenance Plan (O & M), including an emergency plan, within 120 days of the effective date of this rule. Any new plans or changes in existing plans will be filed within 30 days of ~~prior to~~ the proposed effective date of implementation.
- E. No change.
- F. No change.
- G. No change.
- H. No change.
- I. Operators of an intrastate pipeline transporting natural gas or other gas pipeline system will utilize a cathodic protection system designed to protect metallic pipe, when used, in its entirety, in accordance with 49 CFR 192, Subpart I, August 14, 1995 ~~February 15, 1994~~, (and no future amendments), incorporated by reference, on file with the Office of the Secretary of State, and copies available from the United States Government Printing Office, P.O. Box 371975M, Pittsburgh,

Pennsylvania 15250-7975. Such a cathodic protection will be in operation within 60 days after completion of construction.

- J. Operations of an intrastate pipeline transporting natural gas or other gas pipeline system will not use solvent cement to join together plastic pipe manufactured from different materials unless the operator utilizes a joining procedure in accordance with the specifications of 49 CFR 192, Subpart F, August 14, 1995 ~~February 15, 1994~~ (and no future amendments), incorporated by reference, on file with the Office of the Secretary of State, and copies available from the United States Government Printing Office, P.O. Box 371975M, Pittsburgh, Pennsylvania 15250-7975.
- K. No change.
- L. No change.
- M. No change.
- N. No change.
- O. No change.
- P. No change.
- Q. No change.
- R. No change.
- S. No change.

R14-5-205. Master Meter System Operators

- A. No change.
- B. No change.
- C. No change.
- D. Operators of a master meter will establish file with the Commission ~~an Operation and Maintenance Plan (O & M) including an emergency plan. The plans must be maintained at the master meter location, within 120 days of the effective date of this rule. Any new plans or changes in existing plans will be filed 30 days prior to the proposed effective date of implementation.~~
- E. No change.
- F. No change.
- G. Operators of a master meter system will not use solvent cement to join together plastic pipe manufactured from different materials unless the operator utilizes a joining procedure in

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accordance with the specifications of 49 CFR 192, Subpart F, August 14, 1995 ~~February 15, 1994~~ (and no future amendments), incorporated by reference, on file with the Office of the Secretary of State, and copies available from the United States Government Printing Office, P.O. Box 371975M, Pittsburgh, Pennsylvania 15250-7975.

- H. No change.
- I. No change.
- J. No change.

- K. No change.
- L. No change.
- M. No change.
- N. No change.
- O. No change.
- P. No change.
- Q. No change.
- R. No change.